REMARKS

Claims 1-30 are pending in the present application. In the Office Action, the Examiner indicated that claims 8-9 contain allowable subject matter. However, the Examiner indicated that claims 1-7 and 10-30 were unpatentable in the Office Action Summary. In the detailed action, the Examiner indicated that claims 1, 11-13, 16, and 23-25 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Weaver, et al (U.S. Patent No. 4,882,754) in view of Kramer, et al (U.S. Patent No. 6,658,027). Claims 2-7, 14-15, 17-22, and 26-27 were also apparently rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Weaver in view of Kramer, although these claims were not listed at item 5 on page 4 of the Office Action.

The Examiner provided contradictory indications as to the disposition of claim 8. At item 6 on page 5 of the Office Action, the Examiner indicated that claim 8 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Weaver in view of Mirfakhraei (U.S. Patent No. 6,570,912). However, at item 8 on page 6 of the Office Action, the Examiner indicated that claim 8 was allowed. The Examiner also failed to provide a detailed explanation for the rejection of claim 10. Applicants request that the Examiner provide a clear indication as to the disposition of claims 8 and 10. The Examiner's rejections are respectfully traversed.

With regard to independent claims 1, 11, 16, and 23 Applicants describe and claim methods, and corresponding apparatuses, for determining if samples of data being received will exceed the storage capacity of a buffer. With particular regard to independent claim 1, Applicants also describe and claim deleting selected samples of data from the buffer in response to the storage capacity being exceeded and reconstituting the selected samples of data deleted. For example, when a latency problem occurs in a receiver 310, and a sample buffer 505 cannot hold all of the samples, a buffer control 510 will delete some of the samples. The buffer control

510 will store the precise starting and ending location of any deleted samples and transfer this location information to receive software running on a control unit 315 along with the remaining samples from the sample buffer 505 such that the deleted data may be reconstituted. See Patent Application, pages 15-16 and Figures 3 and 5.

With particular regard to independent claim 11, Applicants also describe and claim compressing the samples of data from the buffer in response to the storage capacity being exceeded and decompressing the samples of data that were compressed. For example, when a latency problem occurs in a receiver 310, and a sample buffer 505 cannot hold all of the samples, the data in the sample buffer 505 may be compressed. The buffer control 510 records the exact location where the compression occurred, and transfers this information to the receiver software so that the compressed samples may be expanded and restored.

Weaver is directed to a data reduction system for use in audio transmitters and receivers. The system described by Weaver includes a transmitter having a buffer 36 and a receiver having a buffer 50. A buffer fullness detector 44 determines a fullness of the buffer 36 and provides a buffer fullness signal, F, to a logic unit 24, which uses the buffer fullness signal to determine how much truncation, if any, should be employed at a truncation unit 22. See Weaver, col. 6, ll. 11-17 and Figure 1. The truncation unit 22 may set one or more least significant bits of the sample signal stream to zero, or one, under control of the logic unit 24. See Weaver, col. 4, ll. 38-42. The truncated sample signal stream may be provided to the buffer 36 and then transmitted to the receiver using a channel 38. A digital decoder 56 in the receiver decodes the encoded signals, which are supplied to a reconstruction filter 58 and then to a digital-to-analog converter 60 for conversion to analog form. See Weaver, col. 6, ll. 32-44 and Figure 2.

However, as admitted by the Examiner at item 5 on page 3 of the Office Action, Weaver does not describe or suggest deleting (as set forth in claims 1 and 16) or compressing (as set forth in claims 11 and 23) selected samples of data from the buffer in response to the storage capacity being exceeded. The Examiner therefore relies upon Kramer to describe deleting data from a jitter buffer 120. The Examiner's then alleges that it would have been obvious to combine the techniques described in Kramer and Weaver to arrive at Applicants' claimed invention. Applicants respectfully disagree for at least the following reasons.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, Weaver does not teach or suggest all the limitations of the present invention. In particular, Weaver does not the teach or suggest deleting (as set forth in claims 1 and 16) or compressing (as set forth in claims 11 and 23) selected samples of data from the buffer in response to the storage capacity being exceeded, or reconstituting the selected samples of data deleted or compressed. In fact, Weaver is completely silent with regard to reconstituting the selected samples of data deleted or compressed. Kramer is similarly completely silent with regard to reconstituting the selected samples of data deleted or compressed.

Moreover, Weaver teaches away from the Examiner's proposed modification of the prior art of record. As discussed above, Weaver teaches truncating the received signal (*i.e.* the sample signal stream) before it is provided to the buffer, *i.e.* Weaver teaches that it would be unnecessary to delete or compress selected samples of data from the buffer in the manner suggested by the Examiner and described by Kramer. Thus, Weaver teaches away from deleting (as set forth in claims 1 and 16) or compressing (as set forth in claims 11 and 23) selected

samples of data from the buffer. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. *See, inter alia, In re Fine,* 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson,* 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges*, 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986).

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not obvious over Weaver and Kramer, either alone or in combination. Applicants request that the Examiner's rejections of claims 1-7 and 10-30 under 35 U.S.C. § 103(a) be withdrawn.

With regard to dependent claim 8, the Examiner relies on Mirfakharaei to teach a transmission system for transmitting voice and data comprising a symbol alignment and time equalizer circuit. However, Mirfakharaei does not remedy the aforementioned deficiencies of the primary reference. For at least the aforementioned reasons, Applicants respectfully submit that dependent claim 8 is not obvious over Weaver in view of Mirfakhraei. Thus, if the Examiner intended to reject this claim, Applicants request that the rejection be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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